

Gary P. Bogosian (GPB0689)
Della Cioppa & Bogosian, Esqs.
Attorneys for Creditor/Plaintiff
Charles Arbore
64 Gleneida Avenue
Carmel, New York 10512
(845) 225-1382

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----x

In Re:

RANDALL'S ISLAND FAMILY GOLF
CENTERS, INC., et al.

Debtors.

-----x

Hearing Date: 2/13/01
Time: 10:00 a.m.
Chapter 11

Hon. Stuart M. Bernstein

Case Nos. 00 B 41065 (SMB)
through 00 B 41196 (SMB)

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY
PURSUANT TO RULE 4001 AND 11 U.S.C. SECTION 362 (d)**

TO THE HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE:

NOW COMES CHARLES ARBORE, the above mentioned Creditor/Plaintiff, through their attorneys, DELLA CIOPPA & BOGOSIAN, ESQS., for an Order modifying the automatic stay against the debtors and debtors in possession in the above captioned matter so that the Creditor/Plaintiff may proceed with their negligence action against the debtors and debtors in possession which is currently pending in the Supreme Court of the State of New York, County of Westchester, Index No. 07747/00, and

In the event any moneys are awarded to the Creditor/Plaintiff as a result of his action, the Creditor/Plaintiff shall be entitled to collect said moneys and said Creditor/Plaintiff agrees and consents to be limited in collection of said moneys from any and all existing insurance proceeds covering debtors and debtors in possession with regard to the negligence action, and

For such other and further relief as this Court deems just and proper.

PLEASE TAKE NOTICE that answering affidavits, if any, are required to be served upon the undersigned at least five (5) days prior to the hearing date.

Dated: January 26, 2001
Carmel, New York

DELLA CIOPPA & BOGOSIAN, ESQS.
Attorneys for Creditor/Plaintiff
CHARLES ARBORE
64 Gleneida Avenue
Carmel, New York 10512
(845) 225-1382

BY: s/
Gary P. Bogosian (GPB 0689)

TO: Sydney R. Smith, Esq.
GOLENBACK, EISEMAN, ASSOR & BELL
Attorneys for Debtors/Debtors in Possession
437 Madison Avenue
New York, New York 10022

William Hecht, Esq.
COOPER, BAMUNDO, HECHT & LONGWORTH, LLP
Attorneys for Creditor/Plaintiff Perruzza
845 No. Broadway
White Plains, New York 10603

Robert L. Pryor, Esq.
TRUSTEE
675 Old Country Road
Westbury, NY 11590

William S. Oleson, Esq.
O'CONNOR, MCGUINNESS, CONTE, DOYLE & OLESON
Attorneys for Defendant Yorktown Family Golf
One Barker Avenue, Suite 576
White Plains, NY 10601

KUCZINSKI & ASSOCIATES, P.C.
Attorneys for Creditor/Plaintiff Geoghan, et al.
570 Taxter Road
Elmsford, NY 10523

Kenneth Sacks, Esq.
SACKS & SACKS
Attorneys for Creditor/Plaintiff Golia
150 Broadway
New York, NY 10038

Michael J. Grace, Esq.
GRACE & GRACE
Attorney for Defendant Town of Yorktown
360 Underhill Avenue
Yorktown Heights, NY 10598

Carmine J. Carolei, Esq.
AHMUTY, DEMERS & MCMANUS
Attorneys for Defendant P & M Electric
200 I.U. Willets Road
Albertson, New York 11507

Gary A. Cusano, Esq.
LAW OFFICES OF GARY A. CUSANO
Attorneys for Defendant Harris Miniature Gold Courses, Inc.
303 South Broadway, Suite 435
Tarrytown, NY 10591

Office of the United States Trustee
33 Whitehall Street
New York, NY 10004

Kenneth A. Reynolds, Esq.
TRUSTEE
675 Old Country Road
Westbury, NY 11590

BERLACK, ISRAELS & LIBERMAN, LLP.
120 West 45th Street
New York, NY 10036

Gary P. Bogosian (GPB 0689)
Della Cioppa & Bogosian, Esqs.
Attorneys for Creditor/Plaintiff
Charles Arbore
64 Gleneida Avenue
Carmel, New York 10512
(845) 225-1382

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----x

In Re:

RANDALL'S ISLAND FAMILY GOLF
CENTERS, INC., et al.

Debtors.

-----x

Hearing Date: 2/13/01

Time: 10:00 a.m.
Chapter 11

Hon. Stuart M. Bernstein

AFFIRMATION

Case Nos. 00 B 41065 (SMB)
through 00 B 41196 (SMB)

GARY P. BOGOSIAN, ESQ., an attorney duly admitted to practice law in the State of New York and before this Court, affirms the following to be true under the penalties of perjury:

1. I am a partner in the firm of DELLA CIOPPA & BOGOSIAN, ESQS., the attorneys for the Creditor/Plaintiff, CHARLES ARBORE, and as such I am fully familiar with facts and circumstances of this application.
2. I submit this affirmation in support of the Creditor/Plaintiff, CHARLES ARBORE'S motion to lift the stay against the debtors and debtors in possession in the above referenced bankruptcy action.

BACKGROUND FACTS

3. On or about July 5, 1999 the Creditor/Plaintiff, CHARLES ARBORE, was injured and sustained very serious permanent injuries as a result of the negligence of, among others, the above referenced debtors and debtors in possession.
4. On or about May 15, 2000, an action was commenced in the Supreme Court of the State of New York, Westchester County, naming, among others, the debtors and debtors in possession as defendants. Index No. 07747/00 was assigned. (Annexed hereto as an exhibit is a copy of summons and verified complaint.)

5. Some of the defendants had filed answers in this action, however, the debtors and debtors in possession have not. Upon information and belief, on or about May 4, 2000, the debtors and debtors in possession filed a voluntary chapter 11 petition with this Court and accordingly, the civil action pending in the Supreme Court, Westchester County was automatically stayed. Your affiants firm did not become aware of the chapter 11 filing until on or about June 15, 2000, when we were notified of the filing and automatic stay by the debtors then law firm.
6. I have attempted to have this stay lifted by way of stipulation with the attorneys for the Debtors and Debtors in Possession, however, as of the date of this motion, those attempts have been unsuccessful.

RELIEF REQUESTED

7. As previously stated, the underlying negligence action involves several defendants most of whom are not part of the bankruptcy action. However, since the debtor and debtors in possession are named parties, the entire action has been upheld due to their filing of the bankruptcy petition.
8. Upon information, the debtors and debtors in possession, as well as the other defendants, are covered in part by insurance, the amounts of which are One Million Dollars with an umbrella policy for an additional Five Million Dollars. Accordingly, the Creditor/Plaintiff herein requests that the stay be lifted so that the Plaintiff may proceed in Supreme Court against the debtors to the extent of said insurance policies.
9. To the extent that a judge or jury determines that the Creditor/Plaintiff claims against the debtors/debtors in possession exceeds the amount of the insurance policy limits, then the movant will file a claim in this Court and be treated as any other unsecured creditor or judgment creditor as the case may be.

WHEREFORE, it is respectfully requested that an order be entered:

(1) Pursuant to 11 U.S.C. s 362(d) and Bankruptcy Rule 4001 lifting the stay against the debtors and debtors in possession in the above captioned matter so that the Creditor/Plaintiff may proceed with his negligence action against the debtors and debtors in possession which is currently pending in the Supreme Court of the State of New York, County of Westchester, Index No. 07747/00, and

(2) In the event any moneys are awarded to the Creditor/Plaintiff as a result of their action, the Creditor/Plaintiff shall be entitled to collect said moneys, and said Creditor/Plaintiff agrees and consents to be limited in collection said moneys from any and all existing insurance proceeds covering debtors and debtors in possession with regard to the negligence action, and

(3) For such other and further relief as this Court deems just and proper.

Dated: Carmel, NY
January 26, 2001

s/
Gary P. Bogosian (GPB 0689)

Gary P. Bogosian (GPB 0689)
Della Cioppa & Bogosian, Esqs.
Attorneys for Creditor/Plaintiff
Charles Arbore
64 Gleneida Avenue
Carmel, New York 10512
(845) 225-1382

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X

In Re:

Chapter 11

RANDALL'S ISLAND FAMILY GOLF
CENTERS, INC., et al.,

Hon. Stuart M. Bernstein

Case Nos. 00 B 41065 (SMB)
through 00 B 41196

Debtors.

Presentment Date: February 13, 2001

-----X

**ORDER GRANTING RELIEF FROM
THE AUTOMATIC STAY**

Upon the Notice of presentment of Proposed Order Granting Relief from the automatic stay and the Motion of CHARLES ARBORE, dated January , 2001, with exhibits attached thereto and Proof of Service upon the Trustee, United States Trustee, Debtors/Debtors in Possession, Debtor's Attorney, the Creditor's and the Creditor's attorney; and there being no filed opposition to said motion, it is hereby:

ORDERED that the motion of CHARLES ARBORE is granted as more fully set forth below, and

(1) Pursuant to 11 U.S.C. s 362 (d) and Bankruptcy Rule 4001 the automatic stay shall be deemed to have been modified so that the Creditor/Plaintiff may proceed with their negligence action against the debtors and debtors in possession which is currently pending in the Supreme Court of the State of New York, County of Westchester, index No. 07747/00, and

(2) In the event any moneys are awarded to the Creditor/Plaintiff as a result of his action, the Creditor/Plaintiff shall be entitled to collect said moneys and said Creditor/Plaintiff agrees and consents to be limited in collection of said moneys from any and all existing insurance proceeds covering debtors and debtors in possession with regard to the negligence action.

Dated: New York, NY
, 2001

E N T E R,

Hon. Stuart M. Bernstein
United States Bankruptcy Judge

